IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5406 OF 2005

Sopan Yashwaant Gore & Ors. ..Petitioners.

Vs.

The State of Maharashtra & Ors. ..Respondents.

....

Mr.Vishwanath Talkute for the Petitioners.

Mr.Y.D.Mulani, AGP for the Respondents.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

21st September, 2005.

P.C. :

1. Various lands of the Petitioners came to be acquired pursuant to various notifications issued under the provisions of the Land Acquisition Act. In respect of one such notification, the Learned Reference Court was pleased to enhance the compensation at the rate of Rs.500/- per Guntha. The Petitioners in respect of other notifications

where there was no enhancement, by the application dated 15.1.02 applied under Section 28-A for enhancement. That application was rejected by a communication dated 21st October, 2004 by pointing out to the Petitioners that the Petitioners land fell outside the award where compensation has been enhanced by the award dated 9th August, 1988. Hence, the present petition.

2. The first relief sought is to declare that the classification made tin Section 28-A by words ’same Notification’ is violative of Article 14 of the Constitution of India. If we consider the said relief as prayed for, then we will have to hold that the words ’same Notification’ as not subsisting and the Court would be called upon to add words. This would be impermissible as the declaration is in respect of the right that the Petitioners have. The other effect would be that Section 28-A would become otiose and the benefit which persons now are entitled to would no longer be available and defeat the object of the Amending Act by which Section 28-A was introduced. It is, therefore, not possible to accept the contention as raised on behalf of the Petitioners. Hence, that

contention has to be rejected. Once that be so and the Petitioners lands are not in respect of the notification, where award was passed enhancing the compensation, the Respondent was right in rejecting the application. Consequently, no interference is called for in the exercise of the extra-ordinary jurisdiction of this Court. The Petition is rejected.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)